

Appl. No. 09/728,619
Amtd. Dated February 23, 2005
Reply to Office Action of August 11, 2004

Docket No. CM04795H
Customer No. 22917

REMARKS/ARGUMENTS

Applicants appreciate the time that the Examiner took to telephone the undersigned attorney and discuss the need for a supplemental amendment. The Examiner indicated that Applicants' previous amendment did not address the Examiner's rejection under the judicially created doctrine of obviousness-type double patenting. In an attempt to clearly address the Examiner's rejection, Applicants' submit the following supplemental amendment.

Claims 1 and 12 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of USPN 6,564,066 (Biggs, et al.) in view of USPN 5,583,869 (Grubc, et al.). Applicants, however, strongly disagree and respectfully traverse the rejection.

Analysis of Biggs shows that Biggs is concerned with communication units having priority based upon which site the communication unit is at. For example, a first communication unit may have a first priority at a first site and a second priority at a second site. Thus, one communication unit has different priorities based upon which site the communication unit is at.

In contrast, Applicants teach a method where consoles in a communication system have priority based upon information relating to a talkgroup call. In contrast to Biggs, consoles in the communication system participate in talkgroup calls and certain of the consoles are identified as priority consoles based upon information relating to the talkgroup call. With this in mind, Claims 1 and 12 have been amended to include a limitation to "identifying a number of priority consoles ... based upon information relating to the ... talkgroup call."

Further, to clarify that Applicants' claimed invention is not related to priority of communication units (as Biggs is related to priority of communication units), Applicants' have amended Claim 1 to specify that a talkgroup call takes place between endpoints of the communication system where the endpoints are both consoles and communication units. Thus, by mentioning both communication units and consoles in Applicants' claimed invention, Applicants' point out that the communication units of Biggs can not be read so broadly to encompass the consoles of Applicants' claimed invention. In fact, none of the claims in Biggs even mention consoles since Biggs is not related to consoles at all.

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Analysis of Grube shows that although Grube is concerned with allocating communication resources, Grube does not teach or suggest "determining ... an availability of bandwidth" for "identified priority consoles" where the "identified priority consoles" is "based upon information relating to the requested talkgroup call." For the same reasons set forth above, the combination of Biggs with Grube fail to make obvious Applicants' claimed invention. In particular, neither Biggs nor Grube (alone or in combination) teach or suggest "determining ... an availability of bandwidth" for "identified priority consoles" where the "identified priority consoles" is "based upon information relating to the requested talkgroup call."

Accordingly, this application is believed to be in proper form for allowance and an early notice of allowance is respectfully requested.

Respectfully submitted,

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